

# Superior Court Law Library



## ***Court Informer***

**January 2005**

The *Court Informer* is a publication of the Superior Court Law Library, distributed every two months as a current awareness service. It includes citations to articles recently received by the Law Library as well as other materials that may be of interest to the Court. If you would like to receive a copy of any of the cited articles, please contact the Law Library Information Desk at (602) 506-3945 or return the attached request form to the Law Library. If there are any topics you would like to see covered in forthcoming issues please contact:

Susan Armstrong at (602) 506-3599 or  
[sarmstrong@sccl.maricopa.gov](mailto:sarmstrong@sccl.maricopa.gov)

## CONTENTS

Adoption, Foster Care & Juvenile Justice .....	1
Alternative Dispute Resolution .....	1
Capital Cases & Capital Sentencing .....	1
Courts & Court Administration .....	2
Criminal Justice.....	3
Ethics.....	4
Evidence.....	4
Family Law .....	5
Guardianship & Probate .....	5
Juries & Jury Reform .....	6
Technology and the Law .....	6
Trial Practice.....	7
General Interest .....	7

**Adoption, Foster Care & Juvenile Justice**

1. Cunningham, Larry. "Substantive Limitations on the Power of Family Courts to Commit Delinquent Juvenile to State Custody: Analysis and Critique." 55 *Syracuse Law Review* 87 (2004).
2. Brown, Mark R. "Rescuing Children from Abusive Parents: The Constitutional Value of Pre-Deprivation Process." 65 *Ohio State Law Journal* 913 (2004).
3. Franck, Matthew. "Missouri Juvenile Justice Is Looked on as Model." *St. Louis Post-Dispatch* A1 (December 26, 2004).
4. Hill, Brian C. "The State's Burden of Proof at the Best Interests Stage of a Termination of Parental Rights." 2004 *University of Chicago Legal Forum* 557.
5. Kelley, Tina. "New Jersey Faulted on Its Juvenile Program." *New York Times* B5 (January 14, 2005).
6. "73% of Abused Teens Run Afoul of Law." 105 *Arizona Capitol Times* 5 (December 10, 2004).
7. Teske, Judge Steven C. "Reducing Detention; Using Collaborative Strategies: It Takes a Community." 13 *Juvenile and Family Justice Today* 17 (Winter 2005).

**Alternative Dispute Resolution**

8. Ambrogi, Robert J. "Virtual Justice: Alternative Dispute Resolution Tools Abound Online." 11 *Law Technology News* 45 (November 2004).
9. Coughlan, Patrick Campbell. "Why Mediation? Taking the Leap of Faith." 34 *The Brief* 64 (Fall 2004).
10. Friedman, Roselyn and Erica E. Lord. "Using Mediation to Stem the Tide of Litigation in the Ocean of Family Wealth Transfers." 59 *Dispute Resolution Magazine* 36 (November 2004-January 2005).
11. Katsh, Ethan. "Bringing Online Dispute Resolution to Virtual Worlds: Creating Processes Through Code." 49 *New York Law School Law Review* 271 (2004-2005).
12. Latz, Marty. "Alternative Procedures Can Beat Negotiation Impasse." 25 *Business Journal* 23 (January 7, 2005).
13. Valsamis, Liz. "Plaintiffs, Defendants Flock to Neutrals Instead of Court." 117 *Los Angeles Daily Journal* 1 (December 13, 2004).
14. Wissler, Roselle L. "The Effectiveness of Court-Connected Dispute Resolution in Civil Cases." 22 *Conflict Resolution Quarterly* 55 (Fall-Winter 2004).

**Capital Cases & Capital Sentencing**

15. Heisler, Richard. "The Kids Are Alright: [Roper v. Simmons](#) and the Juvenile Death Penalty After [Atkins v. Virginia](#)." 34 *Southwestern University Law Review* 25 (2004).
16. Joseloff, Anna-Liisa. "Connecticut's Capital Punishment Scheme: Still Tinkering with the

- Machinery of Death.” 23 QLR 889 (2004).
17. Lane, Charles. “Why Japan Still Has a Death Penalty.” *Washington Post* B01 (January 16, 2005).
  18. Lieb, David A. “Missouri Backing Off of Executions.” *Arizona Republic* A14 (December 16, 2004).
  19. Liptak, Adam and Ralph Blumenthal. “Death Sentences in Texas Cases Try Supreme Court’s Patience.” *New York Times* 1 (December 5, 2004).
  20. Mills, Steve. “Death Sentences, Executions Decline; Public Still Backs Capital Punishment.” *Chicago Tribune* 1 (December 31, 2004).
  21. Reinert, Patty. “Supreme Court Finds Discrimination; Majority Critical of Lower Courts in Second Hearing of Death Penalty Case from Texas.” *Houston Chronicle* A4 (December 7, 2004).

### Courts & Court Administration

22. Beck, David J. “Is Our Judiciary Under Serious Attack?” 47 *For the Defense* 10 (January 2005).
23. Belluck, Pam. “Judge’s Libel Suit Against Paper Proceeds.” *New York Times* 19 (January 19, 2005).
24. Brueggmann, Brian. “Judges Fight Image as ‘Judicial Hellhole.’” *Belleville News-Democrat* (January 5, 2005), available at <http://www.belleville.com/mld/belleville/10570984.htm>.
25. Clarkson, Blair. “Steep Rise in Pro Pers Challenge Courts.” 118 *Los Angeles Daily Journal* 2 (January 13, 2005).
26. Fortado, Lindsay. “States Look to Create Malpractice Courts; Backers Say Courts Would Streamline Process by Allowing Judges to Decide Cases. Critics Worry about Fairness.” XXVII *Legal Times* 8 (December 20, 2004).
27. Gettleman, Jeffrey. “A Judge Put Up for Sale on EBay, Free Shipping Included, Isn’t Laughing.” *New York Times* A23 (December 13, 2004).
28. Gordon, Meghan. “Courts to Increase Spending in 2005; Budgets for Treating Drug Offenders Rises.” *Times-Picayune* BT01 (December 21, 2004).
29. Kunz, Tona and Adam Kovac. “Judicial Leaders Say Subcircuits Not Answer to Creating Diversity.” *Daily Herald* 1 (December 20 2004).
30. MacLean, Pamela A. “9<sup>th</sup> Circuit Sees Immigration Appeals Climb; Huge Increase by Volume, Importance Marks Court in 2004.” 117 *Los Angeles Daily Journal* 1 (December 30, 2004).
31. McKee, Mike. “Retired Calif. Judges Could Face Big Fee Hike.” *Law.com* (January 11, 2005), available at <http://www.law.com/jsp/article.jsp?id=1105364082122>.
32. “Passed Over for Top Slot, Okla. Justice Sues Colleagues for Age Discrimination.” *Law.com* (January 6, 2005), available at <http://www.law.com/jsp/article.jsp?id=1104759350018>.
33. Pearce, Russell G. “Redressing Inequality in the Market for Justice: Why Access to Lawyers Will Never Solve the Problem and Why Rethinking the Role of Judges Will Help.” LXXIII *Fordham Law Review* 969 (December 2004).
34. Post, Leonard. “Lean Times for State Courts Get Leaner Still; Layoffs, Larger Caseloads Persist.”

27 *National Law Journal* 1 (December 6, 2004).

35. Quintanilla, Ray. "Cameras in Court Would Rein in Judge." *Orlando Sentinel* A24 (December 26, 2004).
36. Rapattoni, Linda. "Courts May Get \$88 Million More; Governor Provides Additional \$200 Million for Next Year." 118 *Los Angeles Daily Journal* 1 (January 11, 2005).
37. Weiser, Benjamin. "Judge's Decisions Draw Notice, for Being Conspicuously Late." *New York Times* 1 (December 6, 2004).

### Criminal Justice

38. Baldas, Tresa. "States Allow Courts to Force Treatment; Judges Empowered in 42 States to Order Therapy, Drugs for Mentally Ill." 27 *National Law Journal* 4 (January 3, 2005).
39. Berman, Douglas A. "The Roots and Realities of *Blakely*." 19 *Criminal Justice* 4 (Winter 2005).
40. Branchflower, Stephen E. "The *Alaska Office of Victims' Rights*: A Model for America." XXI *Alaska Law Review* 259 (December 2004).
41. Cohen, Laurie P. "In Wake of Ruling, Disarray Plagues Federal Sentencing." *Wall Street Journal* 1 (December 28, 2004).
42. Dunlap, Justine A. "Sometimes I Feel Like a Motherless Child: The Error of Pursuing Battered Mothers for Failure to Protect." 50 *Loyola Law Review* 565 (Fall 2004).
43. Fields, Gary. "Length of Sentence Often Depends on Who's Prosecuting." 118 *Los Angeles Daily Journal* 4 (January 3, 2005).
44. Fischer, Jennifer. "The Americans with Disabilities Act: Correcting Discrimination of Persons with Mental Disabilities in the Arrest, Post-Arrest, and Pretrial Processes." XXIII *University of Minnesota Law Review* 157 (Winter 2005).
45. Hays, Tom. "Urban Murder Rate Declines; Officials Credit Crime-Fighting Strategies, Patrols." *East Valley Tribune* A13 (January 1, 2005).
46. Holland, Jesse J. "Illicit Camera Phone Use Could Mean Jail Time for Peeping Toms." *East Valley Tribune* A16 (December 10, 2004).
47. Kinkade, Patrick, Ronald Burns, and Angel Ilarraza Fuentes. "Criminalizing Attractions: Perceptions of Stalking and the Stalker." 51 *Crime & Delinquency* 3 (January 2005).
48. La Fond, John Q. and Bruce J. Winick. "Sex Offender Reentry Courts: A Proposal for Managing the Risk of Returning Sex Offenders to the Community." 34 *Seton Hall Law Review* 1173 (2004).
49. Labbe, Theola S. "New Approach for Young Offenders; Therapy Addresses Spate of Sex Crimes." *Washington Post* C05 (January 9, 2005).
50. Olinger, David. "Abuse of Elderly a Difficult Crime to Prosecute." *Denver Post* A08 (January 23, 2005).
51. Peterson, Kavan. "Report on Prison Reform: Two-Thirds of Released Inmates Are Back Behind Bars Within 3 Years." 106 *Arizona Capitol Times* 13 (January 21, 2005).

52. Phillips, Allie. "A Flurry of Court Interpretations: Weathering the Storm after *Crawford v. Washington*." 38 *The Prosecutor* 37 (November/December 2004).
53. Post, Leonard. "Prosecutors Feel Broad Wake of 'Crawford'; Child Abuse Cases, 911 Calls Affected." 27 *National Law Journal* 1 (December 13, 2004).
54. Todd, Debra. "Sentencing of Adult Offenders in Cases Involving Sexual Abuse of Children: Too Little, too Late? A View from the Pennsylvania Bench." 109 *Penn State Law Review* 487 (Fall 2004).
55. Villa, Judi. "Arizona Prisons Focusing on Rehab; New Units Ease Path to Freedom." *Arizona Republic* A1 (December 14, 2004).
56. Wallace, Bruce. "Japan's Criminal Justice System Moves at a Snail's Pace; High-Profile Cases Can Take Years to Reach a Verdict. Critics Cite a Need for More Defense Lawyers and More Open Interrogation Methods." *Los Angeles Times* A3 (January 23, 2005).

## Ethics

57. "ABA: Lawyers Must Report Non-Practicing Lawyers' Misconduct." 2004 *Lawyers Weekly USA* 2 (December 6, 2004).
58. Addcock, Thomas. "N.Y. State Bar Draws Fire with Proposal to Change Pro Bono Definition." *Law.com* (January 18, 2005), available at <http://www.law.com/jsp/article.jsp?id=1105364114924>.
59. "Arizona Supreme Court Censures Willcox Municipal Court Judge." 105 *Arizona Capitol Times* 4 (December 3, 2004).
60. Johnson, Tracy. "Justice May Face Discipline on McNeil Visit." *Seattle Post-Intelligencer* B2 (December 7, 2004).
61. Lavoie, Richard. "Making a List and Checking It Twice: Must Tax Attorneys Divulge Who's Naughty and Nice?" 38 *U.C. Davis Law Review* 141 (November 2004).
62. Zacharias, Fred C. "A Word of Caution for Lawyer Assistance Programming." XVIII *Georgetown Journal of Legal Ethics* 237 (Fall/Winter 2005).

## Evidence

63. Barkett, John M. "E-Discovery Help May Be on the Way... Sort of: Civil Rules Advisory Committee Proposal." 72 *Defense Counsel Journal* 37 (January 2005).
64. Belluck, Pam. "To Try to Net a Killer, Police Ask a Small Town's Men for DNA; Novel Swoop-and-Swab Effort Leaves Some Wary." *New York Times* A1 (January 10, 2005).
65. Bisla, Kiran. "It All Came Down to a Single Hair: The Probability of Exclusion vs. the Probability of Guilt Through the Use of Mitochondrial DNA Evidence in *State v. Pappas*." 26 *Whittier Law Review* 263 (2004).
66. Bivens, Don. "Caution! Electronic Discovery; New *ABA Civil Discovery Standards*." 41 *Arizona Attorney* 28 (January 2005).
67. Borzych, Mark E. "Avoiding Electronic Discovery Disputes; Practice Questions Answered." 41 *Arizona Attorney* 36 (January 2005).

68. Ginkowski, Richard A. "Getting to Know and Love Electronic Evidence." 19 *Criminal Justice* 14 (Winter 2005).
69. Harris, Andrew. "Car's Black Box Evidence Ruled Admissible; Ruling on Validity of Science Is Among First." *Law.com* (January 13, 2005), available at <http://www.law.com/jsp/article.jsp?id=1105364095740>.
70. Kerr, Orin S. "Digital Evidence and the New Criminal Procedure." 105 *Columbia Law Review* 279 (January 2005).
71. Khanna, Roma. "Rangers to Review Crime Lab; HPD Chief Agrees to Allow 'Impartial' External Oversight." *Houston Chronicle* A1 (January 25, 2005).
72. MacLean, Pamela A. "Electronic Discovery Is in Flux; Lawyers Clash Over New Rule Proposals." 27 *National Law Journal* 1 (January 17, 2005).
73. Moreno, Joelle Anne. "What Happens When Dirty Harry Becomes an (Expert) Witness for the Prosecution?" 79 *Tulane Law Review* 1 (November 2004).
74. Nimsger, Kristina M. and Michele C.S. Lange. "E Is for Evidence; Examining Recent E-Discovery Developments." 1 *SciTech Lawyer* 8 (Winter 2005).

### Family Law

75. Cooper, Cynthia L. "Laws Are Still Playing Catch-Up to Needs of Grandparent Caregivers." 13 *Perspectives* 7 (Fall 2004).
76. "The Culture of Cold Feet: More Putting off Marriage; Typical Age Rising for 1<sup>st</sup>-Time Brides, Grooms across U.S." *Arizona Republic* A1 (December 2, 2004).
77. "Judge Denies Pregnant Wife's Pleas for Divorce." *East Valley Tribune* A8 (January 10, 2005).
78. Sikaitis, Joline F. "A New Form of Family Planning? The Enforceability of No-Child Provisions in Prenuptial Agreements." 54 *Catholic University Law Review* 335 (Fall 2004).
79. Severeid, Susan. "Egypt Urged to Reform its Divorce Laws." *Arizona Republic* A27 (December 2, 2004).
80. Telfer, Diana. "In Re T.M.: Who Protects the Indigent Parents?" 6 *Journal of Law & Family Studies* 161 (2004).
81. Wren, Patricia. "Bill Would Boost Rights of Minors in Parent Trials." *Boston Globe* B3 (January 20, 2005).

### Guardianship & Probate

82. Blizzard, Robert E., Roger A. Kindler, Murdaugh S. Madden and Nancy Peterson. "Helping Clients Provide for Pets in Their Estate Plans." 18 *Probate & Property* 52 (November/December 2004).

### Juries & Jury Reform

83. Christensen, Dan. "Fla. High Court Asks Public for Jury Reform Ideas." 27 *National Law Journal* 6 (January 10, 2005).
84. Clemans, Aaron M. "Misuse of the Grand Jury: Forcing a Putative Defendant to Appear and Plead the Fifth Amendment." 28 *Seattle University Law Review* 301 (Winter 2005).
85. "Defense Attorney Confronted with the 'Jury Pool from Hell'." *Law.com* (January 19, 2005), available at <http://www.law.com/jsp/article.jsp?id=1105968926075>.
86. Grey, Jr., Robert J. "Judicial System Must Do Everything Possible to Make Jury Service Easier." 117 *Los Angeles Daily Journal* 6 (December 13, 2004).
87. Horswell, Cindy. "Wanted: People for Jury Duty; San Jacinto Judge Hopes to Find Some with Newspaper Ads." *Houston Chronicle* B1 (January 23, 2005).
88. Perrotta, Tom. "ABA 'Bucks Tradition' in Proposed Revamp of Jury System." *Law.com* (December 10, 2004), available at <http://www.law.com/jsp/article.jsp?id=1102543079842>.
89. Post, Leonard. "DA Seeks Jail Time for Lying Jurors; Acquittal in Murder Case Leads to Push for Crackdown on Jurors." 27 *National Law Journal* 5 (January 3, 2005).
90. Post, Leonard. "Using the Kindness of Lawyers for Jury Reform; Law Firms Kick in Funds for a Program to Increase Juror Participation." 27 *National Law Journal* 6 (January 3, 2005).
91. Prankratz, Howard. "Jury-Pool Rule Change Is on Deck; Denver's Chief Judge Eyes a Call-In System After Finding Many More People Than Needed Are Summoned." *Denver Post* A01 (January 19, 2005).
92. "Prospective Juror Tossed in Slammer; Judge Objects to Woman's Opinion." *Chicago Tribune* 4C (January 16, 2005).
93. Rauscher, Scott. "Court Administered Post-Verdict Jury Questionnaires." 32 *Western State University Law Review* 87 (Fall 2004).
94. Rice, Harvey and Andrew Tilghman. "Not Enough Latinos on Juries, Firm Says; Law Practice Uses Death-Penalty Appeal and Research to Push for Reform." *Houston Chronicle* A1 (December 13, 2004).
95. Saltzman, Jonathan. "A Top Judge Urges Better Juror Screening." *Boston Globe* A1 (December 29, 2004).
96. Shields, Nicholas. "Jury Duty No-Shows Get Their Day in Court; After Repeated Failures to Appear, L.A. County Superior Court Wants an Explanation... or a Fine." *Los Angeles Times* B2 (January 28, 2005).
97. Walsh, Jim. "Deciding Life, Death Takes Toll on Jurors." *Arizona Republic* A1 (January 24, 2005).

### Technology and the Law

98. Murphy, John M. III. "From Snail Mail to E-mail: The Steady Evolution of Service of Process." 19 *St. John's Journal of Legal Commentary* 73 (Fall 2004).



**Trial Practice**

- 99. Brooks, Ted. "Hiring Trial Consultants; How to Be Sure the Relationship Works." 11 *Law Technology News* 34 (December 2004).
- 100. McElhaney, James W. "A Painful Breakup: Your Case Will Fall Apart if You Don't Maintain Continuity in Presenting It." 90 *ABA Journal* 26 (December 2004).
- 101. McElhaney, James W. "The Right Words; the Language You Choose to Argue Your Case Can Help Make It a Winner." 91 *ABA Journal* 24 (January 2005).

**General Interest**

- 102. Case, Christa. "E-mail Etiquette; Electronic Communication Skills Becoming Valuable in Workplace." *Arizona Republic* D3 (December 25, 2004).
- 103. David, Theodore M. "Ten Things Every Lawyer Should Know about the IRS." 50 *Practical Lawyer* 35 (December 2004).
- 104. Ford, Michael J. "Lawyer Survival for the New Millennium." 34 *The Brief* 68 (Fall 2004).
- 105. Hechler, David. "A Season for Lists Produces Two on the Legal System; 'Judicial Hellholes' and 'Zany Immunity' Reports." 27 *National Law Journal* 6 (December 20-27, 2004).
- 106. Hillebrand, Gail. "After the [FACTA](#): State Power to Prevent Identity Theft." 17 *Loyola Consumer Law Review* 53 (2004).
- 107. Lerner, Craig S. "Legislators as the 'American Criminal Class': Why Congress (Sometimes) Protects the Rights of Defendants." 2004 *University of Illinois Law Review* 599.
- 108. Nethercut, John. "'This Issue Will Not Go Away...': Continuing to Seek the Right to Counsel in Civil Cases." 38 *Clearinghouse Review* 481 (November-December 2004).
- 109. "Pair Arrested for Telling Lawyer Jokes Outside Courthouse." *Law.com* (January 13, 2005), available at <http://www.law.com/jsp/article.jsp?id=1105364097955>.
- 110. Riechmann, Deb. "Bush to Renominate 20 Judges Resisted by Democrats." *Law.com* (December 27, 2004), available at <http://www.law.com/jsp/article.jsp?id=1103549752858>.
- 111. Stull, Elizabeth. "Small Firm Makes Pro Bono Mandatory." *Law.com* (December 13, 2004), available at <http://www.law.com/jsp/article.jsp?id=1102543079833>.
- 112. Winograd, Ben. "More Illegal Immigrants Caught in Ariz. Than in Any Other State." *Arizona Republic* 7 (January 7, 2005).
- 113. Zaun, Todd. "Japanese Discover Art of the Lawsuit." 119 *Los Angeles Daily Journal* 9 (December 6, 2004).

## Court Informer Request Form

### January 2005

If you would like copies of any articles cited in the *Court Informer* please **circle** the corresponding number and send this form to the Law Library, ECB, 2<sup>nd</sup> Floor.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
101	102	103	104	105	106	107	108	109	110	111	112	113							

Name: \_\_\_\_\_

Location: \_\_\_\_\_

Telephone Number: \_\_\_\_\_